

**UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK**

ROBERT MCHARDY, Individually and On  
Behalf of All Others Similarly Situated,

Plaintiff,

V.

KIT DIGITAL, INC., KALIEL TUZMAN,  
ROBIN SMYTH, and GAVIN CAMPION,

Defendants.

CASE NO. 1:12-CV-4199 (VM)

## CLASS ACTION

FBO STEPHEN N. CONRAD PERSHING  
LLC AS CUSTODIAN ROLLOVER  
ACCOUNT, Individually and On Behalf of All  
Others Similarly Situated,

Plaintiff,

V.

KIT DIGITAL, INC., KALIEL TUZMAN,  
ROBIN SMYTH, and GAVIN CAMPION,

Defendants.

CASE NO. 1:12-CV-5446 (VM)

**RESPONSE OF FRANZ HELLWIG TO THE  
COMPETING MOTIONS FOR APPOINTMENT AS LEAD PLAINTIFF**

On July 25th, 2012, Franz Hellwig was one of eight applicants (the “Movants”)that moved this Court, pursuant to the Private Securities Litigation Reform Act of 1995 (“PSLRA”), for appointment as lead plaintiff in the above captioned actions.

Under the PSLRA, the Court should appoint as lead plaintiff the Movant with the largest financial interest in the relief sought by the class that also meets the adequacy and typicality prongs of Fed. R. Civ. P. 23. 15 U.S.C. § 78u-4(a)(3)(B)(iii). Although Franz Hellwig satisfies

the requirements of Rule 23, Mr. Hellwig's loss of \$124,904 does not appear to represent the largest financial interest amongst the Movants.

However, should the Court find that the Movant with the largest financial interest is unwilling or inadequate under the requirements of the PSLRA, Mr. Hellwig remains willing to serve as lead plaintiff on behalf of the class.

Dated: August 7, 2012

Respectfully submitted,

*/s/ Andrei V. Rado*

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